

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:08CR279
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
ALLISON KLANECKY,)	
)	
Defendant.)	

This matter is before the Court on the Defendant's motion for return of property (Filing No. 142) and the government's response (Filing Nos. 146, 147).

On January 31, 2009, the Defendant was convicted after a jury trial of possessing an unregistered destructive device (components for the assembly of a grenade) as charged in Count II of the Second Superseding Indictment, in violation of 26 U.S.C. §§ 5841, 5861(d), and 5871. The Court dismissed Counts I and III of the Second Superseding Indictment that charged the Defendant with possession of an unregistered firearm, destructive device, or machine gun (Count I) and forfeiture of numerous explosive items (Count III). The Court explained that Count III was dismissed because a conviction under Count III required a conviction under Count I.

On November 2, 2010, the Bureau of Alcohol, Tobacco, Firearms and Explosives authorized the destruction of the items in question. Even assuming that the items had not been destroyed, the Defendant may not legally possess per se contraband such as explosives and has no legal right to their return. *One 1958 Plymouth Sedan v. Com. of Pa.*, 380 U.S. 693, 699 (1965).

IT IS ORDERED that the Defendant's motion for return of property (Filing No. 142) is denied.

DATED this 20th day of June, 2011.

BY THE COURT:

S/Laurie Smith Camp
United States District Judge